

UNITED STATES BANKRUPTCY COURT

DISTRICT OF NEW JERSEY

Caption in Compliance with D.N.J. LBR 9004-1(b)

Document

Page 1 of 9



Order Filed on September 21, 2023
by Clerk
U.S. Bankruptcy Court
District of New Jersey

In Re:

Case No.: _____

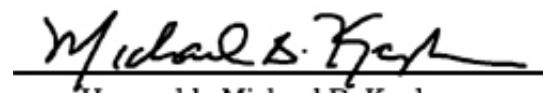
Chapter: _____

Judge: _____

CONFIDENTIALITY STIPULATION AND PROTECTIVE ORDER REGARDING THE PLAINTIFF'S
MOTION FOR RELIEF FROM THE STAY PURSUANT TO 11 U.S.C. § 362(D) TO CONTINUE
PENDING LITIGATION

The relief set forth on the following page is **ORDERED**.

DATED: September 21, 2023


Honorable Michael B. Kaplan
United States Bankruptcy Judge

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY**

Caption in Compliance with D.N.J. LBR 9004-1(b)

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In re:

BED BATH & BEYOND INC., *et al.*,

Debtors.¹

Chapter 11

Case No. 23-13359 (VFP)

(Jointly Administered)

**CONFIDENTIALITY STIPULATION AND PROTECTIVE ORDER
REGARDING THE PLAINTIFF'S MOTION FOR RELIEF FROM THE
STAY PURSUANT TO 11 U.S.C. § 362(D) TO CONTINUE PENDING LITIGATION**

The relief set forth on the following pages, numbered three (3) through seven (7), is

ORDERED.

(Page | 3)

Debtors: BED BATH & BEYOND INC., *et al.*

Case No. 23-13359-VFP

Caption of Order: CONFIDENTIALITY STIPULATION AND PROTECTIVE ORDER REGARDING THE PLAINTIFF'S MOTION FOR RELIEF FROM THE STAY PURSUANT TO 11 U.S.C. § 362(D) TO CONTINUE PENDING LITIGATION

This Stipulation and Protective Order (the “Stipulation”) is entered into between the above-captioned debtors and debtors in possession (collectively, the “Debtors”), Safety National Casualty Corporation (“Safety National”), and Phyllis Eichner (the “Plaintiff,” and, together with the Debtors and Safety National, the “Parties”) who stipulate and agree as follows.

WHEREAS, on November 11, 2022, the Plaintiff filed her *Third Amended Complaint and Jury Demand* against Bed Bath & Beyond Inc. (“BBB”), Dan Nguyen, Hamilton Commons TEI Equities, LLC, Stanley Access Technologies, and various Doe defendants (collectively, excluding BBB, the “Non-Debtor Defendants”) in the Superior Court of New Jersey, Atlantic County (the “State Court Action”), to recover, among other things, damages arising from various personal injury-related causes of action (the “Claims”). *See Phyllis Eichner v. Bed, Bath & Beyond Inc., et al.*, Case No. ATL-L-2254-21.

WHEREAS, on April 23, 2023 (the “Petition Date”), the Debtors filed voluntary petitions for relief under chapter 11 of title 11 of the United States Code (the “Bankruptcy Code”) in the United States Bankruptcy Court for the District of New Jersey (the “Court”), which triggered these bankruptcy proceedings (the “Bankruptcy Proceedings”). The Debtors operated their businesses and manage their properties as debtors in possession pursuant to sections 1107 and 1108 of the Bankruptcy Code throughout the Bankruptcy Proceedings.

WHEREAS, upon the Debtors’ filing of their chapter 11 petitions, the State Court Action was stayed automatically pursuant to section 362 of the Bankruptcy Code (the “Stay”) as to BBB. On August 18, 2023, the Plaintiff filed a *Notice of Motion for Relief from Automatic*

(Page | 4)

Debtors: BED BATH & BEYOND INC., *et al.*

Case No. 23-13359-VFP

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Stay (the “Motion”) [Docket No. 1925] seeking to adjudicate, liquidate, and obtain a judgment as to BBB in the State Court Action and recover from applicable insurance carriers, if any.

WHEREAS, on September 5, 2023, Safety National filed a reservation of rights with respect to the Motion [Docket No. 2122] and the Debtors filed an objection with respect to the Motion [Docket No. 2126];

WHEREAS, the hearing on the Motion was adjourned from September 12, 2023 to such date as to be determined by the Parties at the availability of the Court, pending the agreement of the Parties to this Stipulation;

WHEREAS, the Debtors maintained a general commercial liability insurance policy (the “Insurance Policy”) through Safety National during the period in which the Claims were alleged to occur, which may apply to such Claims;

WHEREAS, the Parties have entered into this Stipulation and agreed to be bound by its terms, subject to approval by the Court, to provide Plaintiff's counsel a copy of the Insurance Policy on a professionals' eyes-only basis.

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED, AND UPON APPROVAL BY THE BANKRUPTCY COURT OF THIS STIPULATION, IT IS SO ORDERED as follows:

1. The foregoing recitals are hereby incorporated by reference into this Stipulation with the same force and effect as if set forth fully hereinafter.
2. This Stipulation shall not become effective unless and until it is approved and entered by the Court (the “Stipulation Effective Date”).

(Page | 5)

Debtors: BED BATH & BEYOND INC., *et al.*

Case No. 23-13359-VFP

Caption of Order: CONFIDENTIALITY STIPULATION AND PROTECTIVE ORDER REGARDING THE PLAINTIFF'S MOTION FOR RELIEF FROM THE STAY PURSUANT TO 11 U.S.C. § 362(D) TO CONTINUE PENDING LITIGATION

3. Upon the Stipulation Effective Date, the Debtors shall provide Plaintiff's undersigned counsel a copy of the Insurance Policy on a professionals' eyes-only basis. Safety National shall cooperate in good faith to ensure the Debtors provide such copy of the Insurance Policy and shall not interfere with its provision in any way, unless it is shared in a manner contrary to the terms of this Stipulation.

4. The Insurance Policy shall be treated by all Parties as strictly confidential and shall be reviewed on a professionals' eyes-only basis. For the avoidance of doubt, counsel for the Plaintiff may share relevant portions of the Insurance Policy and discuss the same with the Plaintiff; *provided, however,* that neither Plaintiff nor counsel for the Plaintiff shall share or discuss the Insurance Policy with any other party in interest, other than the Debtors' and Safety National's retained professionals.

5. To the extent Plaintiff cites, uses, or otherwise references any language or term of the Insurance Policy in any pleading before the Court filed with respect to the Debtors' objection to the Motion or Safety National's reservation of rights, the Plaintiff shall redact any such reference to the Insurance Policy. The unredacted version of any pleading filed by the Plaintiff with respect to the Debtors' objection to the Motion or Safety National's reservation of rights as well as the Insurance Policy shall be forwarded to this Court under seal.

6. Neither this Stipulation nor any terms contained herein shall be offered or received in evidence or in any way referred to in any legal action or administrative proceeding among or between the Parties other than as may be necessary to do the following: (a) as permitted in Paragraph 5 of this Stipulation, (b) obtain approval of or to enforce this Stipulation,

(Page | 6)

Debtors: BED BATH & BEYOND INC., *et al.*

Case No. 23-13359-VFP

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or (c) seek damages or injunctive relief in connection with any violation(s) of the terms of this Stipulation.

7. The Debtors are authorized to take all actions necessary to effectuate the relief provided by this Stipulation.

8. Neither the Stipulation nor any negotiations and writings in connection with this Stipulation will, in any way, be construed as or deemed to be evidence of or an admission on behalf of any Party regarding any claim or right that such party may have against the other Party.

9. Nothing in this Stipulation shall limit the Plaintiff's ability to later seek production of the Insurance Policy pursuant to the terms applicable law in this Case or the State Court Action. All rights, defenses, arguments to Safety National and Debtors' production of the Insurance Policy, if the same is sought by Plaintiff, are hereby reserved.

10. Each of the Parties hereto represents and warrants it is duly authorized to enter into and be bound by this Stipulation.

11. This Stipulation shall not be modified, altered, amended, or vacated without the written consent of the Parties hereto. Any such modification, alteration, amendment, or vacation, in whole or part, shall be subject to the approval of the Court.

12. This Stipulation may be executed in multiple counterparts, any of which may be transmitted by facsimile or electronic mail, and each of which will be deemed an original, but all of which together will constitute one instrument.

13. The terms and conditions of this Stipulation shall be immediately effective and enforceable upon its entry.

(Page | 7)

Debtors: BED BATH & BEYOND INC., *et al.*

Case No. 23-13359-VFP

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REGARDING THE PLAINTIFF'S MOTION FOR RELIEF FROM THE
STAY PURSUANT TO 11 U.S.C. § 362(D) TO CONTINUE PENDING
LITIGATION

14. The Court retains exclusive jurisdiction to resolve any dispute arising from or related to the interpretation or enforcement of this Stipulation.

Dated: September 20, 2023

/s/ Francis J. Ballak

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